

REMARKS

Claims 1, 3-17, 19-27, and 29-37 are pending in the present application. Claims 2, 18 and 28 are canceled. Claims 1, 5, 17, 19, 27, 29 and 30 are amended and claims 35-37 are added. Independent claims 1, 17 and 27 are amended to incorporate the features of claims 2, 18 and 28. Claims 5, 19 and 29 are amended to clarify the contents of a product evaluation form. Support for the amendments to claims 5, 19 and 29 and new claims 35-37 may be found at least on page 12, lines 18-26 and page 10, lines 11-26 of the present specification. Claims 29 and 30 are amended to change their dependency to independent claim 27. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 112, Second Paragraph

The Office Action rejects claims 5 and 29 under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. This rejection is respectfully traversed.

Claims 5, 19 and 29 are amended by replacing the phrase “a substantially completed product evaluation form” with “the product evaluation form” and by adding information to describe the contents of the product evaluation form. Therefore the rejection of claims 5 and 29 under 35 U.S.C. § 112, second paragraph has been overcome. Applicants respectfully request withdrawal of the rejection of claims 5 and 29 under 35 U.S.C. § 112, second paragraph.

II. 35 U.S.C. § 103, Alleged Obviousness Based on Call

The Office Action rejects claims 1, 3, 4, 7, 8, 13-17, 19, 21-27, 30 and 32-34 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Call* (U.S. Patent Number 6,418,441 B1). This rejection is respectfully traversed.

As to independent claims 1, 17 and 27, the Office Action states:

Referring to claims 1, 7, 8, 13-17, 19, 21-23, 26, 27, 30, and 34 *Call* teaches a system, method, and program comprising: reading a product identification token associated with the product wherein the product identification token identifies a location from which product information may be retrieved (column 1, line 59 column 2, line 48; column 4, lines 1-46); retrieving the product information associated with the product using the product identification token;

and presenting the product information to a user (column 4, lines 1-46). Call does not teach that the product information is an evaluation/registration form. However, the Examiner notes that this limitation is not functionally involved in the elements of the recited system. Therefore this limitation is deemed to be nonfunctional descriptive material. The steps of reading, retrieving, and presenting would be performed the same regardless of what information the token identified. The differences between the Applicants' evaluation/registration form and the prior art are merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Furthermore, Call teaches that the type of information made available to a user is "... completely under the control of [the] manufacturer." (column 10, lines 1-32). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to retrieve any type of information in the invention of Call because such information does not functionally relate to the elements of the claimed method and system and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Office Action dated June 22, 2004, pages 2-3.

As amended, claim 1, which is representative of the other rejected independent claims 17 and 27 with regard to similarly recited subject matter, reads as follows:

1. A method for evaluating a product, the method comprising:
reading a product identification token associated with the product wherein the product identification token identifies a location from which a product evaluation form may be retrieved;
retrieving the product evaluation form associated with the product using the product identification token;
presenting the product evaluation form to a user; and
reading a receipt identification token on a receipt corresponding to the product, wherein the receipt identification token provides receipt purchase information; and
entering the receipt purchase information into the product evaluation form.
(emphasis added)

The features of claims 2, 18 and 28 have been incorporated into independent claims 1, 17 and 27. As stated in the Office Action, *Call* does not teach reading a receipt identification token on a receipt corresponding to the product, wherein the receipt identification token provides receipt purchase information; and entering the purchase information into the product evaluation form. Furthermore, it would not have been obvious to modify *Call* to include such features.

Call is directed towards a method and apparatus for disseminating product information over the Internet. The product information is produced and maintained by product manufacturers using existing universal product codes as access keys. The universal product codes assigned to the participating manufacturers are cross-referenced with Internet addresses, which direct a user to information about the products designated by those codes. *Call* does not teach or suggest using a receipt identification token to produce receipt purchase information for a purchased product and entering the receipt purchase information into a form. Further, *Call* is directed toward providing product information to a user. To the contrary, the claims of the present invention recite entering the receipt purchase information into a product evaluation form. Thus, *Call* does not teach or suggest the features of independent claims 1, 17 and 27.

Since claims 3, 4, 7, 8, 13-16, 19, 21-26, 30 and 32-34 depend from independent claims 1, 17 and 27, the same distinctions between *Call* and the invention recited in claim 1, 17 and 27, apply to dependent claims 3, 4, 7, 8, 13-17, 19, 21-27, 30 and 32-34. In addition, *Call* does not teach or suggest receiving additional information entered by a user, adding the additional information to a product evaluation form, and sending the product evaluation form to a requester, wherein the product evaluation form contains the receipt purchase information and the additional information entered by the user, as recited in dependent claims 5, 19 and 29. To the contrary, *Call* teaches providing product information to a user.

Thus, in addition to being dependent on their respective independent claims, claims 3, 4, 7, 8, 13-17, 19, 21-27, 30 and 32-34 are also distinguished over *Call* based on the specific features recited therein. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1, 3, 4, 7, 8, 13-17, 19, 21-27, 30 and 32-34 under 35 U.S.C. § 103(a).

III. 35 U.S.C. § 103, Alleged Obviousness Based on *Call* and *Golightly*

The Office Action rejects claims 2, 12, 18 and 28 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Call* (U.S. Patent Number 6,418,441 B1) in view of *Golightly* (U.S. Patent Number 4,993,714). This rejection is respectfully traversed.

As to claims 2, 12, 18 and 28, the Office Action states:

Referring to claims 2, 12, 18, 28, *Call* does not teach reading a receipt identification token on a receipt corresponding to the product, wherein the receipt identification token provides receipt purchase information; and entering the purchase information into the product evaluation form. However, *Golightly* teaches this limitation (column 1, lines 44-62; column 2, line 13 – column 3 line 4; Figures 3 and 4). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of *Golightly* into the invention of *Call*. One of ordinary skill in the art would have been motivated to do so in order to retrieve product information by scanning the UPC number from the receipt.

Office Action dated June 22, 2004, pages 4-5.

As stated previously, the features of canceled claims 2, 18 and 28 have been incorporated into independent claims 1, 17 and 27. The Office Action states that *Call* does not teach reading a receipt identification token on a receipt corresponding to the product, wherein the receipt identification token provides receipt purchase information; and entering the purchase information into the product evaluation form. Additionally, *Golightly* does not teach or suggest these features as recited in amended claims 1, 17 and 27.

Golightly is directed toward a point of sales lottery system. A lottery ticket is generated from a customer receipt by listing on the receipt the UPC codes of the items purchased by the customer. The UPC codes can be used as lottery numbers or to generate a lottery number. The generated lottery numbers are stored to the memory of an inventory computer. One or more of the stored lottery numbers are selected as winning numbers. *Golightly* does not teach or suggest reading a receipt identification token on a receipt corresponding to the product, wherein the receipt identification token provides receipt purchase information; and entering the purchase information into a product evaluation form.

The Office Action alleges that these features are taught in the following portions of *Golightly*:

A lottery system provides for the generation of lottery tickets from a customer receipt by listing on the receipt the numerical codes of the Uniform Product Code ("UPC") for the items purchased by the customer. The UPC codes can be used as lottery numbers. To enhance security, the UPC numerical codes listed on a receipt serve as but variables in a predetermined numerical algorithm,

which is executed to generate a lottery number. The lottery numbers generated are stored to memory of the inventory computer, and, once a week, or some other period, the computer randomly selects one or more of the stored numbers as winning numbers. The winning numbers are posted to allow the players to match the lottery numbers of their receipts to the winning number list. Forgery is discouraged by re-execution of the numerical algorithm on the UPC numbers on the receipt as a check of the lottery number on the receipt. An alternative instant lottery system uses a predetermined winning number.

Golightly, column 1, lines 44-62.

FIG. 1 illustrates a check out lane 10. Checkout lane 10 includes a cash register 16 and receipt printer 18 connected to a central inventory computer (shown in FIG. 5). Receipt printer 18 prints customer receipt/lottery tickets 22 after tallying of merchandise 12 selected by a shopper for purchase. Checkout lane 10 also includes a scanning unit 20 for reading bar codes 14 representing the Uniform Product Code number for individual items purchased. It will be understood by those skilled in the art that alternative product numbering systems may be used, for example, the European Article Numbering System Code ("EAN"). A clerk tallies product code numbers for merchandise either by reading and directly entering the product code through cash register 16 or by passing merchandise 12 over scanning unit 20, which reads the product code from the bar codes 14 on the products. Hanging over checkout lane 10 is a poster 21 bearing current winning lottery numbers. Current winning numbers can be numbers for an immediate past period, or numbers for instant winners.

FIG. 2 illustrates a Uniform Product Code label 24 exemplary of labels as applied or printed on merchandise. Label 24 includes an individual product number 26 and a bar code representation 14 of the product number.

FIG. 3 illustrates a customer receipt/lottery ticket 22 (hereinafter "receipt") printed on printer 18 in checkout lane 10 (shown in FIG. 1). The upper portion of receipt includes a listing 28 of merchandise purchased and dollar amounts for individual items. Listing 28 also includes a dollar subtotal, a tax line and a total amount due line. Below listing 28 is a line 31 indicating the time and date of issue of receipt 22. The time and date of issuance of receipt allow easy location of a data base record created upon issuance of receipt 22. Below the time/date line 31 is a listing 30 of Uniform Product Code product numbers for the merchandise purchased. According to one embodiment of the invention, one or more product codes may be selected as winning lottery numbers for receipts issued during a given period. The numbers from list 30 may then be compared to a posting of winning numbers. The date/time line 31 may be checked against data base records to determine whether the receipt 22 presented was actually issued. Upon location of a data base record for receipt 22 the contents of the record may be compared against the receipt as a check against tampering and against repeated claims for the prize. Depending upon the lottery system used, a lottery number 32 may also appear somewhere on receipt 22. Where a lottery number 32 is used the number is generated by a mathematical algorithm using the product code numbers from listing 30 as numerical inputs.

FIG. 4 illustrates an alternative receipt 23 for an instant lottery system. Receipt 23 carries the same information as receipt 22 in FIG. 3, including a listing 28 of merchandise purchased, a time/date line 31, a listing 30 of product code numbers and a lottery number 32 derived from the product code numbers. Receipt 23 also lists a winning number 38, which appears at the top of the receipt.

Golightly, column 2, line 13 through column 3, line 4.

These portions of *Golightly* only teach generating a lottery number using the UPC codes of merchandise purchased at a check out lane. The UPC codes are listed on a customer's receipt and may be used as lottery numbers or to generate lottery numbers. A lottery number is printed on a customer receipt/lottery ticket. Figure 1 of *Golightly* illustrates a check out lane, which may scan purchased merchandise and prints customer receipts/lottery tickets. Figure 2 illustrates a UPC label for merchandise. Figures 3 and 4 merely illustrate versions of customer receipts/lottery tickets created by the system of *Golightly*. Nowhere, in any of these figures of *Golightly*, is there any teaching or suggestion regarding reading a receipt identification token on a receipt corresponding to the product, wherein the receipt identification token provides receipt purchase information. To the contrary, *Golightly* teaches reading a UPC code located on merchandise purchased in a check out lane.

Further, *Golightly* does not teach entering purchase information into a product evaluation form. *Golightly* only teaches storing lottery numbers into a database to verify the validity of lottery numbers printed on customer receipts/lottery tickets. Nowhere, in these portions of *Golightly*, is there any teaching, suggestion, or motivation for entering purchase information into a product evaluation form. *Golightly* is directed to point of sale lottery system rather than a method and system for evaluating a product.

Thus, *Golightly* does not provide for the deficiencies of *Call* with regard to independent claims 1, 17 and 27. Since neither *Call* nor *Golightly* teach or suggest the features of claims 1, 17 and 27, any alleged combination of *Golightly* with *Call* still would not result in the invention recited in claims 1, 17 and 27.

Since claim 12 depends from independent claim 1, the same distinctions between *Call* in view of *Golightly* and the invention recited in claims 1, 17 and 27, apply to dependent claim 12. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 12 under 35 U.S.C. § 103(a).

Moreover, there is no teaching or suggestion in either of *Call* or *Golightly* regarding the desirability of combining these two system in the manner alleged by the Office Action. There is no teaching or suggestion in *Call* to the effect that it would be desirable to provide a point of sales lottery system. Moreover, there is no teaching or suggestion in *Golightly* regarding the desirability to disseminate product information over the Internet. Thus, the only teaching or suggestion to even attempt to combine *Call* and *Golightly* is obtained from Applicants' own disclosure and is completely based on a hindsight reconstruction having first had benefit of the knowledge of Applicants' claimed invention and disclosure.

IV. 35 U.S.C. § 103, Alleged Obviousness Based on Call and Official Notice

The Office Action rejects claims 6, 9-11, 20 and 31 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Call* (U.S. Patent Number 6,418,441 B1) in view of Official Notice. This rejection is respectfully traversed.

Applicants respectfully traverse the Official Notice taken with regard to claims 6, 9-11, 20 and 31. As stated in the Office Action, *Call* does not teach providing a reward to the user upon completion of a product evaluation form wherein the reward includes at least one of a coupon, a discount on a product, cash, frequent flyer mileage, credits toward goods, and credits toward services; and wherein the product evaluation form includes a set of questions. Applicants respectfully submit that it would not be obvious to one of ordinary skill in the art to be motivated to incorporate these features into the invention of *Call* in order to provide a user with an incentive to take the time to answer a series of questions since *Call* does not teach or suggest presenting a series of questions to a user or retrieving any input from a user. Thus, the only teaching or suggestion to even attempt to modify *Call* in this manner is obtained from Applicants' own disclosure and is completely based on a hindsight reconstruction having first had benefit of the knowledge of Applicants' claimed invention and disclosure.

The Office Action states that the feature of claims 6, 9-11, 20 and 31 are old and well known in the art. There is no evidence to support this statement. Applicants request that the Examiner provide prior art or an affidavit within the personal knowledge of the Examiner declaring the facts to support the Official Notice.

Since claims 6, 9-11, 20 and 31 depend from independent claims 1, 17 and 27, respectively, the same distinctions between *Call* and the invention recited in claims 1, 17 and 27, apply to dependent claims 6, 9-11, 20 and 31. Specifically, *Call* does not teach or suggest reading a receipt identification token on a receipt corresponding to a product, wherein the receipt identification token provides receipt purchase information; and entering the purchase information into a product evaluation form. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 6, 9-11, 20 and 31 under 35 U.S.C. § 103(a).

V. New Claims 35, 36 and 37

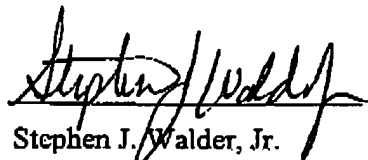
In addition to the above, the cited references do not teach the specific features recited in new dependent claims 35, 36 and 37. Specifically, *Call*, *Golightly*, and the alleged combination of these references do not teach or suggest that the product evaluation form is an electronic form and entering the receipt purchase information further comprises automatically populating fields in the electronic form with the receipt purchase information. Thus, in addition to being dependent upon independent claims 1, 17 and 27, respectively, claims 35, 36 and 37 are also distinguished over the cited references based on the specific features recited therein.

VI. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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